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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,209	02/13/2002	Richard Nils Dawson	839-1170	6251

7590

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NIXON & VANDERHYE P.C.  
8th Floor  
1100 North Glebe Road  
Arlington, VA 22201-4714

EXAMINER

PHAN, THIEM D

ART UNIT

PAPER NUMBER

3729

DATE MAILED: 06/05/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/073,209

Applicant(s)

DAWSON ET AL.

Examiner

Tim Phan

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Title***

1. The following title is suggested: Method of Forming a Stator.

### ***Specification***

2. Insert, as suggested, the first full paragraph of the application following the title of the invention: This application is a division of application no. 09/733,556 filed on 12/08/2000.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8, as understood, are rejected under 35 U.S.C. 101 because under 35U.S.C. 101 "... may obtain a patent therefor ...", this has historically been interpreted to mean one (1) patent

for one invention. These claims are recited in Application Number: 10/046761 or attorney

Docket Number: 839-1164.

### *Double Patenting*

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-7 are further rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-16 of Application Number: 10/046761. Although the conflicting claims are not identical, they are not patentably distinct from each other because in the claims 1-7, for example, there is merely obvious variation of an invention claimed in claims 14-16 of Application Number: 10/046761.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention such as:

- “controlling respective locations ... force load ... contact points” (Claim 1, lines 10-12),
- “contact points are controlled ... stress ... minimized” (Claim 2, lines 1 & 2),
- “controlled ... equal” (Claim 3, line 2),
- “stiffness is controlled ... frame plate” (Claim 4, lines 1 & 2),
- “further away” (Claim 5, line 2), it is unclear how far away is necessary,

these phrases merely recite a use without any active, positive steps delimiting how this use is actually practiced. *Ex parte* Erlich, 3 USPQ2d 1011 (Bd. PA&1. 1986).

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by C. T. Hibbard (US 1,685,054) hereinafter '054.

The '054 teaches the core construction of a dynamo-electric machine (Cf. page 1, lines 2 and 3) comprising:

- providing a stator frame with a frame plate (Cf. Fig. 1, element 1),
- connecting many key bars (Cf. Fig. 2, element 5) with dovetail to stator frame,
- providing a stator core (Cf. page 2, lines 34 & 35) with a package of stator section laminations (Cf. Fig. 1, element 2; page 1, lines 25 & 26) to be coupled to stator frame through a dovetail slot (Cf. Fig. 2, element 5),
- engaging the dovetails into dovetail slots (Cf. Fig. 2, element 5) such that the keybar-dovetails contact respective laminations,
- controlling locations of contact points (Cf. Fig. 2, elements 5 & 6) such that the force load is evenly distributed among the contact points.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '054.

**As applied to claims 2-5**, the '054 teaches the claimed invention except for the minimizing of key-bar stress and controlling the stiffness of key-bar contact points. It would have been obvious to one of ordinary skill in the art at the time the invention was made to minimize the key-bar stress and control the stiffness of key-bar contact points since it is known in the art that core laminations secured with dovetail keys at various thickness (Cf. Fig. 1, element 2) are also clamped together (Cf. Fig. 1, element 7), minimizing key-bar contact points' stress.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the '054 in view of Forbes et al (US 4,712,035) hereinafter '035.

The '054 teaches the core construction of a dynamo-electric machine which reads on all of applicants' claimed limitations.

The '035 teaches the wedging means or wedge (Cf. Fig. 8, element 81; column 8, lines 23-29) to be inserted into dovetail slot to prevent displacement between engaging elements.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the '054 with the '035 and to modify the method of '054 by applying the wedge as taught by '035 in order to prevent displacement between engaging elements.

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*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 703-605-0707. The examiner can normally be reached on M - F, 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7307 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

TP

Tim Phan  
Examiner  
Art Unit 3729

tp  
May 30, 2003

  
**CARL J. ARBES**  
**PRIMARY EXAMINER**